

**LEGAL****REQUIREMENTS**

42 USC 666(16)

MCLA 552.602

MCLA 552.603

MCLA 552.623

MCLA 552.633

MCLA 552.635

MCLA 552.644

MCLA 552.650

**Federal**

Federal law requires procedures under which the State has authority, in appropriate cases, to withhold or suspend, or to restrict the use of, drivers licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

**State**

State laws establish occupational and drivers license suspensions for non-payment of child support and/or violations of parenting time orders.

The Support and Parenting Time Enforcement Act permits the suspension of licenses for the non-payment of support, both as the result of a notice process, or of contempt proceedings. It also allows for the suspension of licenses for violations of parenting time orders as the result of contempt proceedings.

**DEFINITIONS**

"Occupational license" is defined as "a certificate, registration, or license issued by a occupational regulatory agency that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation."

"Occupational regulatory agency" refers to "a state department, bureau, or agency that has regulatory authority over an individual issued an occupational license."

**ELIGIBILITY****REQUIREMENTS**

The Friend of the Court sends a payer a notice of intent to order the suspension of the payer's drivers or occupational license if:

- an arrearage greater than three months of the current monthly support obligation has accrued; **and**
- the payer holds a drivers or occupational license, or both, or the payer's occupation requires a license; **and**
- an order of income withholding is not applicable or has been unsuccessful in securing regular payments on the support obligation and the arrearage.

**ADMINISTRATIVE  
PROCESS-  
SUPPORT**

The Friend of the Court determines that a payer has met the eligibility requirements for the license suspension process and sends a notice.

**Notice**

The Friend of the Court sends FOC 80, Notice Of Proposed License Suspension And Request For Hearing, to:

- the payer;
- all other interested parties; and
- any attorneys of record.

The Notice Of Proposed License Suspension And Request For Hearing must state:

- the amount of the arrearage;
- the payer's drivers and/or occupational licenses is subject to an order of suspension;
- the suspension order will be entered and sent to the licensing agency unless the payer responds within 21 days of mailing by either:
  - paying the arrearage in full; or
  - requesting a hearing;
- a hearing may only be requested if the payer:
  - wishes to suggest to the court a repayment schedule; **or**
  - objects based on an incorrect arrearage amount; **or**
  - objects based on an incorrect identity of the payer;
- if the payer believes that support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order; and
- the date of mailing.

File a copy of the notice with the circuit court.

**Payer Response**

The payer has 21 days after the date of the Notice Of Proposed License Suspension And Request For Hearing was sent to respond to the Friend of the Court by either paying the arrearage in full or requesting a hearing.

The payer requests a hearing:

- if he/she believes a mistake regarding the identity of the payer was made; **or**

- if he/she believes a mistake of fact regarding the arrearage was made, and can show that the arrearage is less than three months worth of support payments; **or**
- to suggest an arrearage repayment schedule; **or**
- to request a delay of the proposed suspension until a filed motion is heard by the court regarding the modification of the current support order.

If the payer requests a hearing for the modification of the support order, the hearings on the proposed license suspension and support modification should be consolidated. If the hearings cannot be consolidated, the support modification hearing should be held prior to the hearing on license suspension.

After scheduling the hearing, send copies of the FOC 81, Petition To Suspend License, along with an FOC 7, Notice Of Hearing, to:

- all parties; **and**
- attorneys of record.

#### **Failure of the Payer to Respond**

If the payer fails to respond after 21 days following the mailing of FOC 80, Notice Of Proposed License Suspension And Request For Hearing, review the case to determine if:

- the payer has failed to pay the arrearage listed on the notice in full; **or**
- the payer has requested a hearing.

If it is determined that the payer has failed to pay the arrearage listed on the notice in full, or has not requested a hearing, submit an FOC 81, Petition To Suspend License, and an FOC 84, Order Suspending License (Child Support/Parenting Time), to the court.

#### **Hearing on Petition to Suspend License**

At the hearing on the petition to suspend a license, the Friend of the Court provides to the court:

- proof that the total arrearage at the time of notification exceeded three months of the current support obligation; **and**
- the correct identity of the payer; **and**
- a suggestion of a conditional suspension and proposed arrearage repayment schedule.

Submit FOC 82, Order Regarding Payment Of Arrearage (License Suspension), to the court for entry after the hearing.

Monitor the payer's compliance with the terms of the Order Regarding Payment Of Arrearage. If the payer complies with terms of the Order Regarding Payment Of Arrearage, no further action is needed.

If the payer fails to comply with the repayment schedule, submit an FOC 81, Petition To Suspend License, and an FOC 84, Order Suspending License (Child Support/Parenting Time), to the court.

**Failure of the  
Payer to Appear**

If the payer requests a hearing and fails to appear, verify that all parties were given proper notice. The motion should not be heard until all parties are given proper notice. If it is determined that proper notice was given to all parties, submit FOC 81, Petition To Suspend License, and FOC 84, Order Suspending License (Child Support/Parenting Time), to the court.

**Forwarding Order  
for Suspension**

Do not forward a copy of the FOC 84, Order Suspending License, to the Secretary of State, or appropriate occupational regulatory agency, or both, until 14 days after the original attempt of service of the order was made to the payer.

**Note:** Service can be by personal service under the court rule; or by registered or certified mail; return receipt requested, delivery restricted to the payer. When sending an FOC 84, Order Suspending License, to the Secretary of State, you **must** include the 4-digit Court Code.

Determine that 14 days have passed by:

- the date that the United States Postal Service first attempts delivery of the order by registered or certified mail to the payer; **or**
- the date the Process Server first attempts delivery of the order to the payer.

**CONTEMPT  
PROCESS-  
SUPPORT**

The court orders the suspension of a payer's drivers license, occupational license(s), or both, following an order to show cause for non-payment of support if:

- an arrearage greater than three months of the current monthly support obligation has accrued; **and**
- the payer holds a drivers or occupational license, or both, or the payer's occupation requires an occupational license; **and**
- the payer appears for the hearing; **and**
- the payer is found to be in contempt.

**Note:** Because the payer is committing civil contempt outside the presence of the court, he/she **must be** present in order to be found in contempt.

If the court determines that the conditions necessary for a license suspension are met, and finds the payer in contempt, submit FOC 6, Order After Hearing On Bench Warrant/Show Cause (Support), or FOC 82, Order Regarding Payment Of Arrearage (License Suspension) to the court for entry.

Monitor the payer's compliance with the terms of the Order Regarding Payment Of Arrearage. If the payer complies with terms of the Order Regarding Payment Of Arrearage, no further action is needed.

If the payer fails to comply with the repayment schedule, and the arrearage is not paid in full, send the payer an FOC 83, Notice Following Order For Payment Of Arrearage. After serving the payer notice and opportunity for a hearing, submit an FOC 81, Petition To Suspend License, and an FOC 84, Order Suspending License, to the court.

#### **Forwarding Order for Suspension**

Do not forward a copy of the FOC 84, Order Suspending License (Child Support/Parenting Time), to the Secretary of State, or appropriate occupational regulatory agency, or both, until 14 days after the original attempt of service of the suspension order was made to the payer.

**Note:** Service can be by personal service under the court rule; or by registered or certified mail; return receipt requested, delivery restricted to the payer. Forwarding of the FOC 84, Order Suspending License (Child Support/Parenting Time), is sent by first class mail. When sending the order to the Secretary of State, you must include the 4-digit Court Code.

#### **PARENTING TIME VIOLATIONS**

License suspension is utilized as a remedy for either parent found to be in violation of a parenting time order. License suspensions for violators of parenting time orders are pursued through civil contempt proceedings. Apply the make-up parenting time policy first. If application of the make-up parenting time policy is unsuccessful, you may proceed with a license suspension remedy.

#### **Contempt Notice**

If criteria for a proposed license suspension is met, submit an FOC 19, Petition And Order To Show Cause For Contempt (Custody/Parenting Time) to the court for entry. Include an option for the court to conditionally suspend the drivers license, occupational license, or both, of the parent violating the parenting time order, if he/she is found in non-compliance with a make-up parenting time order.

Once the respondent receives notice, he/she has 14 days to petition the court for a modification of the current parenting time order. If the

respondent requests a hearing for the modification of the parenting time order, it should be consolidated with the license suspension order. If the hearings cannot be consolidated, the modification hearing should be held prior to the hearing on license suspension.

**Contempt Finding**

If the respondent fails to comply with the order for ongoing and make-up parenting time, the Friend of the Court petitions for a subsequent contempt proceeding. Upon the subsequent finding of contempt, submit FOC 58, Order After Hearing On Alleged Custody/Parenting Time Violation, requesting the suspension of the violating parent's drivers license, occupational license(s), or both, to the court for entry.

**Forwarding of Suspension Order**

Upon the finding of contempt, forward FOC 84, Order Suspending License (Child Support/Parenting Time), to the Secretary of State or appropriate occupational regulatory agency.

**Note:** Service can be by personal service under the court rule; or by registered or certified mail; return receipt requested, delivery restricted to the payer. Forwarding of the FOC 84, Order Suspending License (Child Support/Parenting Time), is sent by first class mail. When sending the order to the Secretary of State, you **must** include the 4-digit Court Code.

**RECISION OF SUSPENSION ORDERS**

Recision of license suspension orders are completed for the individual once certain criteria are met. Send FOC 86, Order Rescinding License Suspension (Child Support/Parenting Time), to the Secretary of State and/or the occupational regulatory agency(ies) where the suspension order was sent within 7 days of entry. The Order Rescinding License Suspension is served by first class mail.

**Non-Payment of Support**

A license suspension order for non-payment of support is rescinded by a court order.

**Court-Initiated**

If the payer agrees to and the court orders a repayment schedule of the arrearage, the court enters an FOC 86, Order Rescinding License Suspension (Child Support/Parenting Time).

**Friend of the Court-Initiated**

Petition the court to rescind the license suspension order if:

- the payer and/or parties agree that a recision is in the best interest of the children; or
- the arrearage is paid in full; or
- the case closes.

File an FOC 85, Petition To Rescind License Suspension, with the court. Once the order is entered by the court, the Friend of the Court

has seven days from entry to send it to the licensing agency(ies). The Friend of the Court is also responsible for serving parties with a copy of the petition and order.

**Parenting Time Violation**

A license suspension order for parenting time violations is rescinded by a court order.

**Court-Initiated**

If the payer agrees to and the court orders a make-up parenting time schedule, the court enters an FOC 86, Order Rescinding License Suspension (Child Support/Parenting Time).

**Friend of the Court-Initiated**

Rescind the license suspension order if:

- the payer and/or parties agree that a rescission is in the best interest of the children; **or**
- the case closes.

File an FOC 85, Petition To Rescind License Suspension, with the court. Once the order is entered by the court, the Friend of the Court has seven days from entry to send it to the licensing agency(ies). The Friend of the Court is also responsible for serving parties with a copy of the petition and order.

**LICENSE REINSTATEMENT**

The Secretary of State or occupational regulatory agency reinstates the payer's license within 7 business days following the receipt of the Order Rescinding License Suspension and payment of appropriate agency reinstatement fees. The agency sends a notice of reinstatement to the payer.